

UNITED STATES DISTRICT COURT

for the
Western District of Virginia

Luke Harley McBrayer

Plaintiff

v.

Gregory Winston

Defendant

Civil Action No. 7:19cv00616

WAIVER OF THE SERVICE OF SUMMONS

To: Luke Harley McBrayer

(Name of the plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

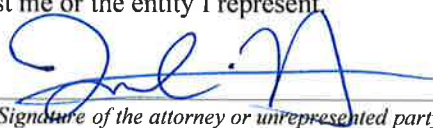
I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from 10/18/2019, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: 11/15/2019

Gregory Winston

Printed name of party waiving service of summons


Signature of the attorney or unrepresented party

Julian F. Harf, Esq.

Printed name

Guynn, Waddell, Carroll & Lockaby, PC
415 S. College Avenue
Salem, VA 24153

Address

julianh@guynnwaddell.com

E-mail address

(540) 387-2320

Telephone number

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

CERTIFICATE OF SERVICE

I do hereby certify that on this 15th day of November, 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, and I further certify that I have mailed by United States Postal Service the document to the following:

Luke Harley McBrayer
#10-34225
New River Regional Jail
PO Box 1067
Dublin, VA 24084
Plaintiff pro se

/s/ Julian F. Harf
Julian F. Harf (VSB #90775)
Guynn, Waddell, Carroll & Lockaby, P.C.
415 S. College Avenue
Salem, Virginia 24153
Phone: 540-387-2320
Fax: 540-389-2350
Email: JulianH@guynnwaddell.com
Attorney for Defendant Gregory Winston